

WINDELS MARX LANE & MITTENDORF, LLP

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*Special Counsel for Irving H. Picard, Trustee for
the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

FITERMAN INVESTMENT FUND;
VERDEWAY INVESTMENT PARTNERS
LLC; STEVEN FITERMAN, individually, and
in his capacity as General Partner of
FITERMAN INVESTMENT FUND; SUSAN
FITERMAN, individually, and in her capacity as

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04354 (SMB)

General Partner of FITERMAN INVESTMENT
FUND,

Defendants.

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated SIPA liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, et seq., and the estate of Bernard L. Madoff, individually, by and through his counsel, Windels Marx Lane & Mittendorf, LLP, and defendants Fiterman Investment Fund, Verdeway Investment Partners LLC, Steven Fiterman, individually and in his capacity as General Partner of Fiterman Investment Fund, and Susan Fiterman, individually and in her capacity as General Partner of Fiterman Investment Fund (“Defendants”), by and through their counsel, Loeb & Loeb LLP (together, the “Parties”), hereby stipulate and agree to the following:

1. On December 12, 2016, the Trustee filed an Amended Complaint against Defendants.
2. On February 10, 2017, Defendants filed an Answer to the Amended Complaint.
3. On October 17, 2017, the Parties entered into a settlement agreement (the “Settlement Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [ECF No. 3181].
4. In accordance with Federal Rule of Bankruptcy Procedure 7041, and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice and without costs to either Trustee or Defendants, subject to Trustee’s right to move ex parte to re-open this adversary proceeding in the event of an

uncured default under the Settlement Agreement, solely to seek entry of judgment pursuant to (and subject to) the terms of the Settlement Agreement.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties in interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

Dated: New York, New York
January 5, 2018

**WINDELS MARX LANE & MITTENDORF
LLP**

By: /s/ Howard L. Simon
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of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

LOEB & LOEB LLP

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Attorneys for Defendants

SO ORDERED:

Dated: January 5th, 2018
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE